IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7922 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LAXMIKANT NAGINDAS UPADHYAY

Versus

STATE OF GUJARAT

Appearance:

MR PK JANI for Petitioners

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 12/06/2001

ORAL JUDGEMENT

#. Initially, this petition was filed under Section 438 of Criminal Procedure Code seeking anticipatory bail from this court in connection with the complaint being

Criminal Case No.796 of 1999 (M Case No.10/96) filed before the learned Judicial Magistrate First Class, Vadnagar which was later on permitted to be converted into the application under Section 482 of the Criminal Procedure Code.

#. Below the complaint the learned Magistrate ordered to issue non-bailable warrant against the present applicants-accused. It was agreed by all the learned counsel for the parties appearing in this matter that the non-bailable warrant be converted into bailable warrant. Accordingly, the order issuing non-bailable warrant against all the applicants-accused is converted into the order of bailable warrant in sum of Rs.5,000/= with one surety of like amount for each of the accused.

#. Earlier, Mr.Unwala, learned counsel for the petitioner-accused prays for quashing and setting aside the complaint on the ground that independent agency like CID (Crime), Mehsana investigated the case and submitted report in favour of the accused. It is thereafter only the complainant has filed this complaint directly before the court on which the learned Magistrate took cognizance and ordered to issue non-bailable warrant therefore, the complaint be quashed.

#. During the pendency and final disposal of this petition Shri Parekh, learned counsel appearing for private respondent No.2 made proposal to the present Trustees and made an attempt to settle the dispute between the parties outside the court which is not so far materialized.

#. Under the circumstances, I am of the opinion that if the present applicants-accused appear before the Trial Court and make appropriate application including the prayer of discharge the learned Magistrate shall consider and decide the same in accordance with law.

#. With these observations and directions this petition is disposed of. Interim relief, if any, granted earlier stands disposed of.

****

*Pvv